

THE STATE OF NEW HAMPSHIRE

SUPREME COURT

In Case No. 2005-0764, Tracy Middleton, Trustee of Tracy J. Middleton Revocable Trust & a. v. Town of Greenland, the court on October 17, 2006, issued the following order:

The petitioners, Tracy Middleton, trustee of Tracy J. Middleton Revocable Trust, and Jane King, Trustee of the Jane King Revocable Trust, appeal a decision of the trial court denying their appeal of a Town of Greenland Zoning Board of Adjustment (ZBA) decision granting a special exception for the construction of a single-family home. We affirm.

We will uphold the superior court's decision on appeal unless it is unsupported by the evidence or legally erroneous. Vigeant v. Town of Hudson, 151 N.H. 747, 750 (2005). The party seeking to set aside the ZBA's decision bears the burden of proof on appeal to the trial court. Id. The trial court's review of the ZBA decision is limited to a determination of whether, on the balance of the probabilities, the decision was unlawful or unreasonable. Lone Pine Hunters' Club v. Town of Hollis, 149 N.H. 668, 669-70 (2003).

Having reviewed the record before us, we find no error in the trial court's ruling.

Affirmed.

BRODERICK, C.J., and DUGGAN and GALWAY, JJ., concurred.

**Eileen Fox,
Clerk**